



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2012-0104]**

**Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 8 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. The applicants are unable to meet the vision requirement in one eye for various reasons. The reasons are annotated in each applicant's summary in the "Qualifications of Applicants" section below. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision requirement.

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0104 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the Federal Register on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief,

Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” FMCSA can renew exemptions at the end of each 2-year period. The 8 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

### **Qualifications of Applicants**

#### *Joseph A. Ellis*

Mr. Ellis, age 51, has loss of vision in his right eye due to a traumatic injury sustained at age 14. The best corrected visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, “Mr. Ellis demonstrates sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Ellis reported that he has driven straight trucks for 6 years, accumulating 22,800 miles. He holds a Class D operator’s license from New York. His

driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Matthew G. Epps*

Mr. Epps, 35, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/15. Following an examination in 2012, his optometrist noted, "Mr. Epps has sufficient visual stability to operate commercial vehicles." Mr. Epps reported that he has driven straight trucks for 11 years, accumulating 165,000 miles and tractor-trailer combinations for 1 year, accumulating 19,000 miles. He holds a Class A Commercial Driver's License (CDL) from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Brian R. Gallagher*

Mr. Gallagher, 32, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "In my expert opinion, this person has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Gallagher reported that he has driven straight trucks for 11 years, accumulating 148,500 miles and tractor-trailer combinations for 11 years, accumulating 528,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jolene A. Gauger*

Ms. Gauger, 29, has had amblyopia in her right eye since birth. The best corrected visual acuity in her right eye is 20/80, and in her left eye, 20/25. Following an

examination in 2011, her optometrist noted, “I certify that in my medical opinion, Jolene Alison Gauger has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Ms. Gauger reported that she has driven straight trucks for 14 years, accumulating 350,000 miles. She holds a Class D operator’s license from Wisconsin. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John F. Lynch*

Mr. Lynch, 35, has complete loss of vision in his left eye due to a traumatic injury sustained in the mid 1990s. The visual acuity in his right eye is 20/15. Following an examination in 2012, his ophthalmologist noted, “In my opinion, he has sufficient vision and meets all the standards that are outlined on the page of criteria that were submitted.” Mr. Lynch reported that he has driven straight trucks for 9 years, accumulating 280,800 miles. He holds a Class D operator’s license from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Marcus D. Perkins*

Mr. Perkins, 34, has had a retinal detachment in his left eye since 1987. The best corrected visual acuity in his right eye is 20/20, and in his left eye, light perception only. Following an examination in 2012, his optometrist noted, “I feel Markus has sufficient vision to operate a commercial vehicle.” Mr. Perkins reported that he has driven straight trucks for 8 months, accumulating 160,000 miles and tractor-trailer combinations for 10 years, accumulating 1.4 million miles. He holds a Class D chauffeur’s license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Joe Ramirez*

Mr. Ramirez, 40, has had a macular scar in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2012, his optometrist noted, “In my medical opinion, Mr. Ramirez has sufficient vision to operate a commercial vehicle.” Mr. Ramirez reported that he has driven straight trucks for 4 years, accumulating 320,000 miles and tractor-trailer combinations for 12 years, accumulating 13.5 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John C. Smith*

Mr. Smith, 54, has a prosthetic right eye due to a traumatic injury sustained in 1987. The visual acuity in his left eye is 20/20. Following an examination in 2011, his optometrist noted, “I hereby certify that it is my medical opinion that Mr. Smith has sufficient vision to safely operate a commercial vehicle.” Mr. Smith reported that he has driven straight trucks for 11 years, accumulating 220,000 miles and tractor-trailer combinations for 26 years, accumulating 10.7 million miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business [Insert date 30 days after date of publication in the FEDERAL REGISTER]. Comments will be

available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: May 3, 2012

Larry W. Minor  
Associate Administrator for Policy

